

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DANIEL MICHAEL YONKER,
Petitioner,
v.
ROBERT J. PALMQUIST, *et al.*,
Respondents.)
No. C07-124-RSL
ORDER GRANTING
HABEAS CORPUS
PETITION

The Court, having reviewed the Petition for Writ of Habeas Corpus, Respondent's Answer, Petitioner's Reply, the Report and Recommendation of the Honorable Monica J. Benton, United States Magistrate Judge, and the remaining record, finds and Orders as follows:

- (1) The Court adopts the Report and Recommendation;¹
 - (2) Petitioner's Petition for Writ of Habeas Corpus (Dkt. #1) is GRANTED;
 - (3) The Clerk is directed to send copies of this Order to counsel for each party and to the Honorable Monica J. Benton.

¹Petitioner agrees with the legal conclusions contained in the Report and Recommendation, but objects to the remedy. Petitioner now requests that the Court either direct the Bureau of Prisons (“BOP”) to place him in a community confinement setting for the last six months of his sentence or to resentence him or amend his sentence to ensure the same. The Court has considered, but rejects, petitioner’s objections. Petitioner did not seek such a remedy in his original petition, and he has provided no legal basis for the relief sought. The invalidation of a regulation does not remove all discretion from the BOP to designate petitioner’s place of confinement. BOP does, however, have to exercise its discretion under 18 U.S.C. § 3621(b) in good faith and in accordance with this Order.

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3 DATED this 14th day of September, 2007.
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Robert S. Lasnik
United States District Judge